

REMARKS

Applicants have canceled claim 18 without prejudice to applicants' ability to file and obtain patent protection for claims directed to this cancelled subject matter in applications claiming priority to the present application under 35 U.S.C. § 120. Claims 1-14, 17, 19-23, and 26 are pending in this application. Applicants have addressed the Examiner's rejections in reference to the currently pending claims. No amendments are made with the present response.

THE OFFICE ACTION

35 U.S.C. § 112, First Paragraph

Claim 18 stands rejected under 35 U.S.C. § 112, first paragraph for lack of enablement. Applicants disagree with the Examiner's rejections. Nevertheless, to expedite prosecution, applicants have canceled claim 18.

Double Patenting

Claims 1-8, 10, 12-14, 17-23, and 26 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 and 8-15 of U.S. Patent No. 6,660,731. Applicants hereby submit a terminal disclaimer. Accordingly, Applicants request that the Examiner allow claims 1-8, 10, 12-14, 17-23, and 26.

35 U.S.C. § 112, Second Paragraph

Claims 1-14, 17-23, and 26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner rejects claim 1 and claims that depend thereon asserting that the term "heterocyclyl", as recited therein is indefinite. Applicants respectfully traverse.

Applicants respectfully point out to the Examiner that the term "heterocyclyl" is defined in the specification at page 12, lines 15-20. Specifically, the term "heterocyclyl" is defined as follows: "The term "heterocycle", "heterocyclyl", or "heterocyclic" as used herein includes non-aromatic ring systems having five to fourteen members, preferably five to ten, in which one or more ring carbons, preferably one to four, are each replaced by a heteroatom such as N, O, or S."

Applicants respectfully submit that the above definition answers the Examiners questions regarding the number and nature of heteroatoms and whether the ring can be unsaturated. One of ordinary skill in the art would recognize that the term "non-aromatic ring systems" includes saturated rings. Furthermore, the definition of the term "heterocyclyl" continues on page 12, line 34 to page 13, line 10 to define fused ring systems, as follows: "Also included within the scope of the term "heterocyclyl" or "heterocyclic", as it is used herein, is a group in which a non-aromatic heteroatom-containing ring is fused to one or more aromatic or non-aromatic rings, such as in an indoliny, chromanyl, phenanthridinyl, or tetrahydroquinoliny, where the radical or point of attachment is on the non-aromatic heteroatom-containing ring. The term "heterocycle", "heterocyclyl", or "heterocyclic" whether saturated or partially unsaturated, also refers to rings that are optionally substituted."

Applicants respectfully submit that the above definitions render the term "heterocyclyl" definite and respectfully request that the Examiner withdraw his rejection of claim 1 and claims dependent thereon regarding this term.

The Examiner rejects claim 11 and asserts that the term "further comprising a second therapeutic agent" is indefinite. Applicants respectfully submit that claim 11 further describes which types of therapeutic agents are claimed. Claim 11 states that the second therapeutic agent can be selected from: "a treatment for Alzheimer's Disease, a treatment for Parkinson's Disease, an agent for treating Multiple Sclerosis (MS), a treatment for asthma, an anti-inflammatory agent, an immunomodulatory or immunosuppressive agent, a neurotrophic factor, an agent for treating stroke, an agent for treating cardiovascular disease, or an agent for treating diabetes." Specific examples of such therapeutic agents are described in the specification from page 29, line 5 to page 30, line 12. Accordingly, applicants respectfully assert that the claim is in fact enabled and request that the Examiner withdraw his rejection of claim 11 under U.S.C. § 112, second paragraph.

CONCLUSION

Applicants respectfully request that the Examiner enter the above amendments, consider the foregoing remarks, and allow the pending claims to issue.

Respectfully submitted,



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